

ORIGINAL

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of

Implementation of the Non-Accounting
Safeguards of Sections 271 and 272 of the
Communications Act of 1934, as amended;

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CC Docket No. 96-149

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Federal Communications Commission
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REPLY COMMENTS OF WORLDCOM

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REPLY COMMENTS OF WORLDCOM

WorldCom, Inc. ("WorldCom") hereby files its reply comments in response to the initial comments submitted on February 19, 1997 regarding the Further Notice of Proposed Rulemaking ("Further Notice"), FCC 96-489, issued by the Commission on December 24, 1996 in the above-referenced proceeding.

I. INTRODUCTION AND SUMMARY

In the initial phase of this proceeding, WorldCom filed comments detailing how structural separation is the central protection established by the Telecommunications Act of 1996 to deal with the dramatically heightened incentives and opportunities for the Regional Bell Operating Companies ("RBOCs") to discriminate against their competitors in the new telecommunications world.¹ WorldCom argued that full implementation of all components of the structural separation provisions of the statute is necessary in order to protect competitors who must rely increasingly on the RBOCs' local exchange and exchange access networks as necessary inputs in their efforts to compete with the RBOCs across all telecommunications markets.

¹ See Comments of LDDS WorldCom, CC Docket No. 96-149, filed August 15, 1996; Reply Comments of LDDS WorldCom, CC Docket No. 96-149, filed August 30, 1996.

Section 272 (e)(1) of the Act states that the RBOCs "shall fulfill any requests from an unaffiliated entity for telephone exchange service and exchange access within a period no longer than the period in which it provides such telephone exchange service and exchange access to itself or its affiliates."² In its First Report and Order in this proceeding, the Commission concluded that, in order to monitor how the RBOCs comply with this strict nondiscrimination performance standard, certain public disclosure requirements would be necessary.³ The FCC issued its Further Notice to determine what specific requirements to adopt.

Ten parties filed initial comments in this proceeding. WorldCom agrees with those parties arguing that the Commission should adopt strong and comprehensive disclosure requirements that fully implement the strict performance standard contained in Section 272(e)(1). In particular, the Commission must adopt disclosure requirements, either in this proceeding or immediately in a separate proceeding, to carry out the statutory mandate to ensure that the RBOCs provide nondiscriminatory provisioning intervals for their "telephone exchange service."

II. STRONG AND COMPREHENSIVE DISCLOSURE REQUIREMENTS ARE NECESSARY TO GOVERN THE STRICT PERFORMANCE STANDARDS REQUIRED BY SECTION 272(e)(1) OF THE 1996 ACT

A. WorldCom Supports Modified Performance Standards That Include RBOC Provision Of Local Exchange Services

There can be no rational dispute that the Commission was correct to conclude in

² 47 U.S.C. § 272(e)(1).

³ First Report and Order at paras. 239-245.

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its First Report and Order that data disclosure requirements are essential to implement the Section 272(e)(1) mandate that the RBOCs not discriminate in favor of themselves or their affiliates in providing telephone exchange service and exchange access. Requiring the RBOCs to report certain data will help the Commission and other parties monitor the RBOCs' compliance with Section 272(e)(1), as well as to facilitate enforcement of that provision. The key point of contention in this proceeding is how meaningful and effective this reporting process will actually be. WorldCom supports those commenters who advance certain discrete but important revisions to the Commission's proposed reporting system that will render it a far more productive and useful monitoring and enforcement tool.

WorldCom believes that the Commission's proposed "Format for Information Disclosures Pursuant to Section 272(e)(1)," which is based on seven service categories, different types of access, and the outcome for RBOCs and RBOC affiliates, is a good first step.⁴ However, WorldCom agrees with many commenters that the Commission must strengthen its proposed reporting requirements in order to effectively monitor and enforce compliance with the nondiscrimination principle embedded in Section 272(e)(1).

1. **Reporting Requirements Must Include RBOC Provision Of Local Exchange Service**

Perhaps the single greatest failing of the Commission's proposed reporting requirements is the complete absence of any data concerning the RBOCs' provision of local

⁴ See Further Notice at para. 371; Appendix C.

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exchange service. WorldCom agrees with those commenters pointing out that the plain language of Section 272(e)(1) includes not just exchange access service, but also "telephone exchange service."⁵ The Commission's inexplicable position to "limit the scope of the proposals considered in this docket"⁶ only to exchange access is without foundation and certainly cannot be reconciled with the statutory language. Because the Commission is required to give effect to all parts of Section 272(e)(1), WorldCom believes that the Commission must adopt disclosure requirements in connection with the RBOCs' provision of local exchange service.

Several commenters suggest the inclusion of specific local exchange data. For example, AT&T proposes a non-comprehensive set of disclosure requirements focused on local exchange service,⁷ while MCI argues for specific metrics such as local service installation intervals, local carrier change intervals, and local service repair intervals.⁸ Teleport provides an updated version of its earlier ex parte filing, "Interconnection and Collocation Performance Report," and urges the Commission to adopt the reports proposed by Teleport for local exchange service in conjunction with AT&T's proposals for exchange access service.⁹

While WorldCom agrees with these commenters that, under Section 271(e)(1), the

⁵ 47 U.S.C. § 272(e)(1).

⁶ Further Notice at para. 382.

⁷ AT&T Comments at 11-14.

⁸ MCI Comments at 4-5.

⁹ Teleport Comments at 2-3.

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Commission must adopt and enforce RBOC reporting requirements for local exchange service, it may be more feasible to consider this important issue in the context of a separate proceeding. WorldCom is concerned that, given the Commission's refusal to even consider proposing local exchange metrics in this proceeding, the issue has not been properly noticed, and consequently has not been given a full hearing. Thus, even though WorldCom supports in principle many of the proposed local service metrics advanced by other commenters, it makes far more sense for the Commission to initiate a separate proceeding -- without delay -- to consider and adopt RBOC reporting requirements for local exchange service. Whether in this proceeding or in another, however, the Commission cannot evade its statutory duty to implement all of Section 272(e)(1).

Relatedly, WorldCom agrees with Sprint that local exchange metrics must include resold local services and unbundled network elements ("UNEs") provided by the RBOCs.¹⁰ Resold local services and UNEs are an integral part of the local exchange services and elements that competing carriers will seek to obtain from the RBOCs. However, WorldCom believes that the statutory requirement for RBOC reporting requirements extends to other "local exchange services" as well, such as operational support systems ("OSS") and other discrete elements of the Section 251 and 271 checklists.¹¹ Therefore, in order for the Commission to ensure that the RBOCs do not discriminate against competitors in their provision of any of these "local exchange services" and elements, they must be included as part of any RBOC disclosure reporting system.

¹⁰ Sprint Comments at 3.

¹¹ See 47 U.S.C. §§ 251(a), 271(c)(2)(B).

2. The Proposed Reports Require Additional Information Categories

WorldCom also agrees with those parties that urge the Commission to expand its proposed service categories and utilize additional units of measure. For example, AT&T recommends modifications to indicate whether an RBOC fulfills a request within the period in which the customer (the RBOC or its affiliate) actually requests service.¹² AT&T also seeks to add four additional metrics ("Jeopardy Notification Provided," "Incidence of New Circuit Failures," "Failure Frequency," and "Network Repeat Failure") to the Commission's list of seven categories.¹³ MCI attaches its own proposed framework with similar modifications, and explains that the reports should also include service quality measures to police the nondiscrimination requirement.¹⁴ Sprint proposes three additional service categories: number of customers suffering service outages per 100 subscribers; number of trouble reports per 100 access lines; and number of "held" orders per 100 new facility connection requests.¹⁵ WorldCom finds considerable merit in each of these recommendations, and urges their adoption.

3. The Monthly Data Must Be Reported In A Standardized Format

Finally, WorldCom agrees with all non-RBOC commenters that the RBOC data

¹² AT&T Comments at 5-6.

¹³ AT&T Comments at 7-11.

¹⁴ MCI Comments at 5-6.

¹⁵ Sprint Comments at 3-4.

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must be compiled and reported, at minimum, on a state by state basis,¹⁶ and filed both with the FCC and on the Internet in a standardized format.¹⁷ There is also general agreement that the RBOC data should be reported on a monthly basis.¹⁸

Commenters also recommend several other changes to improve the Commission's proposal. For example, AT&T urges the Commission to require that the data be kept separate for the RBOCs and each of their separate affiliates.¹⁹ Sprint explains that data must be reported separately for the RBOC, the RBOC affiliates, and non-affiliated entities, so that parties can determine whether the statutory mandate is being met.²⁰ Sprint also supports reporting data on a three month rolling average,²¹ while TRA asks for a three year retention requirement.²² WorldCom supports each of these suggested changes because they will help provide the FCC and interested parties with more accurate and timely information.

¹⁶ AT&T Comments at 20-21; MCI Comments at 10; Sprint Comments at 4; TRA Comments at 12.

¹⁷ AT&T Comments at 14-17; MCI Comments at 2-3; Sprint Comments at 5-6; TRA Comments at 6-7.

¹⁸ AT&T Comments at 17-18; Sprint Comments at 4; TRA Comments at 7-8.

¹⁹ AT&T Comments at 18-20.

²⁰ Sprint Comments at 2-3.

²¹ Sprint Comments at 4.

²² TRA Comments at 8.

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B. The Commission Should Reject The RBOCs' Obvious Attempts To Read Section 272(e)(1) Out Of The 1996 Act

Not surprisingly, most of the RBOCs provide various arguments designed to severely limit the scope of -- if not eliminate outright -- the reporting requirements proposed by the Commission. First, most RBOCs argue that no additional information collection and disclosure requirements are warranted beyond what is already required by the Commission in Open Network Architecture ("ONA") and other proceedings.²³ As Teleport correctly points out, however, the information generated by these types of reports do not correspond in any way to basic ILEC-CLEC or ILEC-IXC interconnection.²⁴ Surprisingly, SBC agrees, noting that, if reporting is required, the Commission's proposed categories "are more appropriate in the context of Section 272(e)(1) compliance than are ONA installation and maintenance reports."²⁵

Second, at least one RBOC claims that the Commission's proposed metrics are too precise. Bell Atlantic/NYNEX states that, at most, the RBOCs should be required to provide "simple reports of aggregate data" that rely on "percentages and averages" and are not presented in any standard format.²⁶ WorldCom submits that the real-world utility of such watered-down data in detecting and correcting RBOC discrimination would approximate nil.

²³ Bell Atlantic/NYNEX Comments at 2-3; BellSouth Comments at 2; SBC Comments at 2, 7; Pacific Telesis Comments at 2-4.

²⁴ Teleport Comments at 6-8.

²⁵ SBC Comments at 7.

²⁶ Bell Atlantic/NYNEX Comments at 3-4.

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Third, many RBOCs argue (often inconsistently with one another) for the complete elimination of whole metrics categories. For example, Ameritech asks the Commission to eliminate service categories 1 and 3,²⁷ while BellSouth questions the viability of categories 4 and 6.²⁸ Pacific Telesis claims that no service category is satisfactory.²⁹ On the other hand, SBC alone of the RBOCs professes its general support for the proposed Appendix C format and all seven service categories.³⁰ SBC's position in this regard directly contradicts the other RBOCs' claims.

Finally, several RBOCs object to the need for timely, state-by-state reporting. Ameritech, Bell Atlantic/NYNEX, and Pacific Telesis argue for reporting only on a quarterly basis,³¹ while Bell Atlantic/NYNEX insists that reporting must be regional, not state-by-state.³² Again SBC, alone among the RBOCs, takes a more reasonable course and volunteers to provide state-by-state reporting information on a monthly basis on its Internet home page.³³

In any event, the RBOCs ignore the plain language of Section 272(e)(1) by failing

²⁷ Ameritech Comments at 9-12.

²⁸ BellSouth Comments at 3-4.

²⁹ Pacific Telesis Comments at 4-8.

³⁰ SBC Comments at 4-6.

³¹ Ameritech Comments at 16-17; Bell Atlantic/NYNEX Comments at 4; Pacific Telesis Comments at 12.

³² Bell Atlantic/NYNEX Comments at 4.

³³ SBC Comments at 3-4, 8.

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to recognize the statutory requirement for reporting disclosure metrics that include local exchange services. As discussed above, the Commission should remedy this unsupported omission by instituting a separate rulemaking proceeding immediately to implement all portions of Section 272(e)(1), and any other related statutory provisions, concerned with reporting how the RBOCs provide local exchange services to their Section 272 affiliates and to others.

III. CONCLUSION

The Commission should act in accordance with the recommendations proposed herein.

Respectfully submitted,



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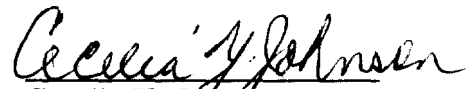
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